## THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF GEORGIA MACON DIVISION

RONALD WALLER, and : JOANN WALLER. :

:

Plaintiffs, : Civil Action

No. 5:06-cv-201 (CAR)

v.

:

ROBERT ABNEY FRICKS, : BRANT FROST, et al. :

ANT PROST, et al.

:

Defendants.

## ORDER ON MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS

Plaintiffs have moved the Court for permission to proceed with their appeal without prepayment of fees. A review of their accompanying affidavit shows that Plaintiffs are able to pay the court's filing fees and are not eligible to proceed *in forma pauperis* under 28 U.S.C. § 1915(a). Plaintiffs' affidavit shows that they have a combined income of \$1,988.00. They list monthly household expenses in the amount of \$695.00. Their income thus exceeds their expenses in the amount of \$1,293.00 per month. As such, their resources are more than sufficient to pay the filing fees on appeal.

Furthermore, the Court finds that Plaintiffs' appeal is not taken in good faith. An appeal may not be taken *in forma pauperis* if the trial court certifies that the appeal is not taken in good faith. Id.; Coppedge v. United States, 369 U.S. 438, 82 S.Ct. 917, 8 L.Ed.2d 21 (1962). Good faith is judged by an objective standard. Coppedge, 369 U.S. at 445, 82 S.Ct. At 921, 8 L.Ed.2d 21. A person demonstrates good faith when he seeks appellate review of any issue that is not frivolous. Id. Though the good faith test does not require a person to show that his appeal has any particular degree of merit, the person at least must demonstrate that the appeal involves legal points arguable

on their merits. Jones v. Frank, 622 F. Supp. 1119, 1120 (W.D. Tex. 1985); see also Ellis v. United

States, 369 U.S. 674, 674-75; 78 S.Ct. 974, 975; 2 L.Ed.2d 1060 (1958). As the Court has already

expressed in its Order granting Defendants' motion to dismiss (Doc. 35), this case is the latest in a

seemingly endless series of frivolous lawsuits filed to harass or retaliate against Defendants for the

foreclosure on their home. The foreclosure and foreclosure sale have been approved by a United

States Bankruptcy Court, and the Bankruptcy Court's decision was affirmed on appeal.

Finally, the Court notes that this case is not ripe for appeal, as final judgment has not been

entered in the case. Defendants' counterclaim for bad faith and stubborn litigiousness remains for

decision.

Accordingly, the motion to proceed in forma pauperis (Doc. 38) is **DENIED**.

**SO ORDERED**, this 5th day of August, 2008.

S/ C. Ashley Royal
C. ASHLEY ROYAL
UNITED STATES DISTRICT COURT

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